IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1081 OF 2007

Shri Bharat Jivandas & Ors. : Petitioners

(Petitioners)

V/s.

Smt.Lucy Anthony Peter Luther & Ors. : Respondents

(Orig.Defendants)

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Mr.Shah i/b. Mr.H.Y.Chande for the petitioners.

Ms M.S.Neelam for respondent nos.1 & 4.

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CORAM : S.A.BOBDE, J.

DATE : AUGUST 24, 2007.

P.C.

1. Rule, returnable forthwith.

Ms Neelam waives service for the respondent nos.1 & 4.

Heard by consent.

2. The Appellate Bench of the Small Causes Court has returned the petitioners' plaint for presentation to the appropriate Court. The view of the Appellate Bench is not good law in view of the judgement of a Full Bench of this Court in Prabhudas Damodar Kotecha & Anr. v.

Smt.Manharbala Jeram Damodar & Ors. (2007 (4) All MR 651).

3. The Writ Petition is, therefore, allowed. The impugned order is set aside. The trial Court shall proceed to decide the suit, in accordance with law. The suit is expedited. The rule is made absolute in the above terms.

S.A. BOBDE, J.